

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN DUBUQUE DIVISION

UNITED STATES OF AMERICA,)
)
Plaintiff,) No. CR 09-1001 LRR
)
vs.)
)
CRAIG NESTEBY,)
)
Defendant.)

SENTENCING MEMORANDUM

The United States submits the following information regarding the sentencing hearing scheduled in this matter for 3:30 p.m. on July 30, 2009:

I. WITNESSES

The United States does not anticipate calling any witnesses during the sentencing hearing.

II. EXHIBITS

The United States has no anticipated exhibits for the sentencing hearing.

III. CONTESTED USSG ISSUES

The United States is not aware of any contested issues regarding application of the advisory United States Sentencing Guidelines.

IV. DEPARTURES AND VARIANCES

The United States is not aware of any grounds for a departure, or variance, from the advisory guideline range.

V. OTHER SENTENCING ISSUES

Defendant has raised two other sentencing matters. First, a request to receive credit for time served in federal custody from February 23, 2009, through his sentencing date. Second, an assertion that he does not have the ability to pay a fine. As to both issues, the United States agrees with the defendant's, and the United States Probation Officer's, assessments. While the Bureau of Prisons is responsible for the computation of time served, the United States does not object to a recommendation to the Bureau of Prisons that defendant be awarded credit for time served in federal custody during the pendency of his case. As to the second matter, the United States agrees defendant does not appear to have the ability to pay a fine.

Respectfully submitted,

MATT M. DUMMERMUTH
United States Attorney

By, *s/Stephanie M. Rose*

CERTIFICATE OF SERVICE

The undersigned certifies that a copy of this document was served on July 15, 2009, to the parties or attorneys of record, shown below by:

U.S. Mail E-Mail Hand Delivery
 Electronically Fax

UNITED STATES ATTORNEY

BY: S/ S.Rose

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